IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 24147 of 1995

Between:

B.Seetharamulu S/o Peda Achaiah
Mudigonda Mandal, Khammam District.

..... PETITIONER

AND

1.The Executive Engineer R & B, Miryalaguda,

Nalgonda District

2. The Dy. Executive Engineer, CAD &R &B,

Miryalaguda, Naglonda District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or direction preferably WRIT OF MANDAMUS declaring the in action of the respondents for not paying the amount for the works done by the petitioner respect of improvements to Mudigonda on Pwd Road to vallabi and up to dist. border limit km 22/9-25/4 ie., 0/0 to 2/5 ,balance work-Impts to Road from 0/o to 0/230 mts as illegal, arbitrary and violates the principles of natural justice and consequently direct the respondents to pay the amounts for the said works to the petitioner.

Counsel for the Petitioner: MR.K.VINAYA KUMAR

Counsel for the Respondents: GP FOR Transport (R & B)

The Court made the following :

ORAL ORDER:

In this writ petition, the petitioner seeks a direction to the respondents to pay the amount due in respect of the works carried out by him.

According to the petitioner, he was allotted the work of laying road between Mudigonda and Vallabhi up to District Boarder in Khammam District by letter dated 23-12-1991 of the respondents. Accordingly, he executed the earth work, collected metal and installed R..C.C pipes also as per the specifications, but, due to the stay order dated 17-1-1992 in W.P.No.338 of 1993 filed by one Mr.Seetaiah, he had to stop the work. Thereafter, though the stay order granted by this court were vacated on 17-7-1993, the respondents allotted the said work to some other third party. His only grievance is that though the work is allotted to some third party, he was not paid the amount for the works carried out by him, which, according to him, works out to Rs.59,040-00.

According to the counter affidavit filed on behalf of the respondents, the petitioner was awarded the work, it was stopped due to the stay orders granted in W.P.338 of 1993, immediately after vacation of the stay orders on 17-7-1992, he was issued notice to resume the work, but in spite of several reminders till September, 1994, he has not chosen to resume the work and therefore the contract was terminated. It is further stated that he has only executed the earth work for which he was duly paid an amount of Rs.23,797-00 and as per the records, no further amount is payable to him.

Learned counsel for the petitioner submits that though the respondents paid some amount, still there is some balance amount payable to the petitioner in respect of the works executed by him.

From the above pleadings, the fact remains that the petitioner has executed certain works as per the work order given by the respondents and was also paid some amount for the same. But, there is assertion and denial regarding payment of some

more amount in respect of the works executed by the petitioner, which requires to be adjudicated before an appropriate forum and this Court under Article 226 of the Constitution of Indian cannot adjudicate the dispute as a fact finding authority.

In the circumstances, the writ petition cannot be entertained and it is, therefore, dismissed. The petitioner is at liberty to pursue his remedy before the appropriate forum.

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14-9-2004

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To

1.The Executive Engineer R & B, Miryalaguda,

Nalgonda District

2. The Dy. Executive Engineer, CAD &R &B,

Miryalaguda, Naglonda District

3. Two C.Cs. to G.P. for Transport (R&B), High Court Buildings, Hyderabad (OUT)

4. Two C.D. copies